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INTERSTATE COMMERCE COMMISSION

LOAN AND SECURITY AGREEMENT

AGREEMENT dated as of February 16, 1973, between
AMERICAN FINANCIAL LEASING & SERVICES CO., an Ohio corporation,
with an office at 14 East Fourth Street, Cincinnati, Ohio ("Borrower")
and NEW ENGLAND MERCHANTS NATIONAL BANK, a national banking
association, with an office at 31 Milk Street, Boston, Massachusetts
("Bank"),

WITNESSETH:

WHEREAS, the Borrower is engaged in the business of
purchasing personal property and leasing the same to others; and

WHEREAS, the Borrower desires to obtain a loan from the
Bank to finance the purchase of certain equipment to be leased by it
pursuant to a Leasing Agreement as hereinafter defined; and

WHEREAS, the Bank is willing to make a loan to the
Borrower for such purpose on the terms and conditions contained
herein;

NOW, THEREFORE, the parties hereto declare and agree as
follows:

ARTICLE I

DEFINITIONS

As herein used:

Section 1.01. "Leasing Agreement" means the Lease Agreement dated December 27 , 19 72 , between the Borrower as Lessor and DURHAM AND SOUTHERN RAILWAY COMPANY, a North Carolina corporation as Lessee.

Section 1.02. "Lessee" means DURHAM AND SOUTHERN RAILWAY COMPANY, a North Carolina corporation, the lessee under the Leasing Agreement.

Section 1.03. "Note" means the promissory note issued to the Bank pursuant to Section 3.01 of this Agreement.

Section 1.04. "Equipment" means the property included within the definition of "Equipment" contained in the Leasing Agreement and all related equipment and accessions, owned or to be owned by the Borrower and leased to the Lessee pursuant to the Leasing Agreement, as well as all items included within the definition of "Equipment" by any amendment of said Leasing Agreement made with the written consent of the Bank.

Section 1.05. "Assigned Rents" means all rents, monies and other claims and rights of the Borrower under the Leasing Agreement (whether or not designated as rents under the Leasing Agreement), assigned by the Borrower to the Bank pursuant to the

provisions of this Agreement. All Assigned Rents are by this Agreement assigned and transferred to the Bank as collateral security for the Borrower's indebtedness and liability now existing or hereafter arising to the Bank under this Agreement.

Section 1.06. "Assigned Equipment" is Equipment assigned by the Borrower to the Bank pursuant to the provisions of this Agreement and which has not been sold, destroyed, commandeered, converted or lost. All Assigned Equipment is by this Agreement assigned and transferred to the Bank as collateral security for the Borrower's indebtedness and liability now existing or hereafter arising to the Bank under this Agreement.

Section 1.07. "Closing Date" means February 16, 19 73, or such other date as may be fixed by mutual agreement between the Borrower and the Bank for the closing or consummation of the transaction contemplated by Section 3.01 of this Agreement.

ARTICLE II

BORROWER'S REPRESENTATIONS AND WARRANTIES

To induce the Bank to enter into this Agreement, the Borrower represents and warrants as follows:

Section 2.01. The Borrower is a corporation duly organized

and existing under the laws of the State of Ohio and duly qualified as a foreign corporation in all states where such qualification is required, except in the states of New York, South Carolina, Virginia and Nevada (all of which states allow qualification after the commencement of business). The Borrower's principal place of business is in Cincinnati, Ohio. To the best of the Borrower's knowledge and belief, the Borrower has complied with all applicable laws and regulations in the conduct of its business.

Section 2.02. The execution, delivery and performance of this Agreement and of the Leasing Agreement by the Borrower are within its corporate powers, have been duly authorized, are not in contravention of law or the terms of the Borrower's Articles of Incorporation or Bylaws, or any amendment thereof, or of any indenture, agreement or undertaking to which the Borrower is a party or by which it is bound.

Section 2.03. The Borrower is the lawful owner of the Assigned Equipment and the Assigned Rents free of any liens or

encumbrances, except for the rights of the Lessee in the Leasing Agreement as provided therein.

Section 2.04. The Leasing Agreement is genuine and enforceable (it being understood that this representation shall in no manner be construed as warranting collectibility) and is the only instrument executed by the Borrower with respect to the Assigned Equipment; all signatures, names, addresses, amounts and other statements contained in said Leasing Agreement are true and correct; the Assigned Equipment has been (or prior to the Closing will be) delivered to and accepted by the Lessee in condition satisfactory to the Lessee; the transaction contemplated by the Leasing Agreement conforms to all applicable laws and regulations; and the Leasing Agreement is (or at the Closing will be) effective against all persons and, if filing or recording is required or permitted by law, the Leasing Agreement has been (or prior to the Closing will be) so filed or recorded as to be effective against all persons.

Section 2.05. There is not now pending against the

Borrower, nor to the knowledge of the officers of the Borrower, is there threatened, any litigation or any proceedings, the outcome of which might seriously affect the continued operations of the Borrower.

ARTICLE III

LOANS AND GRANT OF SECURITY INTEREST

Section 3.01. Subject to the terms and conditions of this Agreement, Bank will loan to the Borrower, and the Borrower will borrow from Bank the sum of Six Hundred Fifty Five Thousand Dollars (\$655,000). The Borrower's obligation to repay such borrowings will be evidenced by the promissory note, payable to the order of the Bank, such Note to be in the form of the note attached hereto as Exhibit "A".

Section 3.02. Borrower hereby, effective upon the Closing Date, grants a security interest in, mortgages, transfers, assigns and pledges to the Bank, ~~as its interest may appear~~, (a) the Leasing Agreement, (b) all units of the Equipment, and (c) any and all amounts paid or to be paid to the Borrower under the Leasing Agreement (whether designated as rents or whether otherwise designated thereunder), in order to secure the payment to the Bank of any and all liabilities and obligations of the Borrower to the Bank under the

Note, this Agreement or any other document or instrument required by, or incidental or collateral to, the Note or this Agreement, whether such liabilities or obligations are direct or indirect, absolute or contingent, or now due or hereafter to become due. Provided, however, that the Bank's rights under this Agreement are subject to the rights of the Lessee as provided in the Leasing Agreement, including the Lessee's Right of Quiet Enjoyment provided in Section 17 of the Leasing Agreement.

ARTICLE IV

CONDITIONS

The Bank's obligation to make the loan pursuant to Section 3.01 hereof shall be subject to the performance or satisfaction of all of the following conditions precedent:

Section 4.01. All representations and warranties contained in Article II hereof shall be true on and as of the Closing Date in all respects, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date.

Section 4.02. On the Closing Date there shall not exist any facts or fail to exist any facts which, immediately following the Closing, would constitute, or with the passage of time or the giving

of notice or both would constitute, an event of default under Article VII hereof.

Section 4.03. The Board of Directors of the Borrower shall have on or prior to the Closing Date duly authorized the execution and delivery of this Agreement and the Note and the taking of all action required under such documents or otherwise in connection with the transactions contemplated by this Agreement.

Section 4.04. On the Closing Date, the Borrower shall have executed and delivered to the Bank the Note provided for in Section 3.01 of this Agreement.

Section 4.05. On the Closing Date, the Borrower shall have executed and delivered to the satisfaction of the Bank, UCC Financing Statements or other documents required by the Uniform Commercial Code, the Interstate Commerce Act, or other applicable law with respect to the Assigned Equipment, the Leasing Agreement, and the Assigned Rents in order, in the judgment of the Bank, to provide that the Bank will acquire on the Closing Date from the Borrower valid and perfected first liens or security interests in the Leasing Agreement, the Assigned Equipment, and the Assigned Rents.

Section 4.06. On the Closing Date there shall have been

furnished to the Bank an opinion of Messrs. Keating, Muething & Klekamp, counsel to the Borrower, to the effect (a) that the execution and delivery of this Agreement, the Note, and the Leasing Agreement have been duly authorized and that said instruments constitute the legal, valid and binding obligations of the Borrower, enforceable in accordance with their respective terms; and (b) that the execution and delivery of the Leasing Agreement constitutes the legal, valid and binding obligation of the Lessee enforceable in accordance with its terms. Provided, however, that Messrs. Keating, Muething & Klekamp may rely on opinions of counsel satisfactory to the Bank with respect to items included in clause (b) above.

Section 4.07. All corporate and other proceedings to be taken in connection with the transactions contemplated by this Agreement and all documents incident thereto shall be reasonably satisfactory in form and substance to the Bank and its counsel, Messrs. Goodwin, Procter & Hoar of Boston, Massachusetts, and the Bank shall have received copies of all documents or records or other evidence as it or its counsel may reasonably request.

ARTICLE V

BORROWER'S AFFIRMATIVE COVENANTS

The Borrower hereby covenants with the Bank as follows:

Section 5.01. The Borrower will take the necessary steps to preserve its corporate existence and its right to conduct business in all states in which the nature of its business shall require qualification to do business. In the event of dispute between the Borrower and the Bank as to when qualification is necessary, the decision of the Bank shall control.

Section 5.02. The Borrower will mail or cause to be mailed to the Bank within Fifteen (15) days after the end of each calendar month a report with respect to that month in the form agreed upon by the Borrower and the Bank. This report will show, with respect to the month for which the report is made, the equipment numbers and amortized value of all Assigned Equipment sold, destroyed, commandeered, converted, or lost, or restricted from use, attached or seriously damaged without repair for a period of Ninety (90) days; and all net proceeds received from the sale, destruction, commandeering, conversion, loss of, or damage to, or prevention of use or attachment of, Equipment or from insurance on or with respect to the Equipment. No report will be required for any month during which none of the above events occurred with respect to any Assigned Equipment.

Section 5.03. In the event of each occurrence of loss or damage to the Equipment in an amount exceeding the greater of \$100,000 or 5% of the aggregate Stipulated Loss Value for all Equipment under the Leasing Agreement in the months in which such loss or damage occurred, the Borrower will, upon the request of the Bank, pay over or cause to be paid over to the Bank the amount paid or payable to the Borrower with respect to such loss or damage by the Lessee under Section 11 of the Leasing Agreement (subject to the rights of the Lessee under Section 11 to repair and replace the Equipment). In the event that Lessee elects to repair or replace any Equipment thus damaged, however, the Borrower shall notify the Bank of such repair or replacement and shall take all necessary steps to satisfy the Bank that the Bank shall have a valid and perfected first lien or security interest in any and all parts added to the damaged Equipment incident to such repair and in any and all replacement Equipment. Any amounts paid over to the Bank in accordance with this Section shall be applied by the Bank against the remaining unpaid principal balances of the Note.

Section 5.04. At its option, the Bank may, upon the occurrence of an event of default hereunder, notify the Lessee in

writing (sending a copy of such notification to the Borrower) and require that such Lessee in accordance with Section 16 of the Leasing Agreement, pay directly to the Bank all or a portion of the monies payable to the Borrower thereunder, and the Borrower shall notify such Lessee that such amounts are to be paid directly to the Bank in accordance with the notification and directions of the Bank.

Section 5.05. The Borrower shall forthwith notify the Bank of the occurrence of any event of default under the Leasing Agreement.

Section 5.06. The Borrower will execute and deliver to the Bank all such further instruments and do all such further acts and things as the Bank may reasonably request to effectuate the purposes of this Agreement.

Section 5.07. The Borrower promises to pay or reimburse the Bank for all its reasonable attorney's fees and expenses incurred in connection with the Bank's enforcement of any of its rights hereunder or thereunder.

Section 5.08. The Borrower will fully and promptly comply with all of its obligations and undertakings under the Leasing Agreement.

ARTICLE VI

BORROWER'S NEGATIVE COVENANTS

The Borrower shall not, without the written consent of the

Bank in each case:

Section 6.01. Cease to engage in the business of the purchase, sale, ownership, rental, storage, servicing, repairing, and leasing of personal property and the performance of services and activities incidental thereto;

Section 6.02. Agree to any amendment of the Leasing Agreement or grant or issue any waiver, consent or indulgence to the Lessee relating to the performance of its liabilities or undertakings thereunder;

Section 6.03. Sell or assign any of its rights in the Leasing Agreement or in any amounts payable thereunder or in any Equipment except as contemplated by the Leasing Agreement and by this Agreement.

ARTICLE VII

EVENTS OF DEFAULT

Section 7.01. If one or more of the following described events of default shall occur:

(a) The termination of existence or business failure of, or the making of an assignment for the benefit of creditors by the Borrower or the Lessee; or

(b) The institution of bankruptcy, reorganization,

liquidation or receivership proceedings by or against either the Borrower or the Lessee, the consent of either the Borrower or Lessee thereto or the pendency of such proceedings for Sixty (60) days; or

(c) Default by the Borrower in the payment when due of any amount payable under the Note or default by the Lessee in the payment when due of any amount payable under the Leasing Agreement and the continuance thereof, for Fifteen (15) days, in the case of non-payment of amounts payable under the Note, and for Thirty (30) days in the case of non-payment of amounts payable under the Leasing Agreement.

(d) Default in the performance of any other liability, obligation or undertaking of the Lessee to the Borrower under the Leasing Agreement and the continuance thereof for Thirty (30) days after written notice of such default from the Bank to the Borrower; or

(e) Default in the performance of any other liability, obligation or undertaking of the Lessee to the Borrower under the Leasing Agreement and the continuance thereof for Thirty (30) days after written notice of such default from the Bank to the Borrower and to the Lessee; or

(f) Any representation, warranty, statement, certificate, schedule or report made or furnished by the Borrower shall prove to have been false or erroneous in any material respect at the time of the making thereof;

then upon the occurrence of any such event of default the Bank at its option may declare all sums owing hereunder or under the Note to be forthwith due and payable without presentment, demand, protest, or further notice of any kind, all of which are hereby expressly waived; and subject to the rights of Lessee, may take immediate possession of any or all units of the Assigned Equipment, and shall have and may exercise any and all remedies available to it hereunder or under the Uniform Commercial Code, the Interstate Commerce Commission, or other applicable law. In addition to the rights of the Bank under the Uniform Commercial Code, Interstate Commerce Commission, or other applicable law, the Borrower hereby fully authorizes and empowers the Bank, upon the happening of any event of default under this Section 7.01, or at any time or times thereafter while such default continues, to sell, assign, and deliver all of the security herefor or any part thereof or any substitute therefor or any addition thereto, at public or private sale, at the option of the Bank, or any officer or

anyone acting on behalf of the Bank without advertisement or notice to the Borrower or any other person, and the Bank, its officers or assigns may bid and become purchaser at any sale, whether public or private.

Section 7.02. The Bank may at any time waive any default or any event of default which shall have occurred and any of its consequences, but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

ARTICLE VIII

APPOINTMENT OF BANK AS ATTORNEY

The Borrower hereby irrevocably appoints the Bank its true and lawful attorney, effective upon the occurrence of any event of default hereunder, with power of substitution, for the Borrower and in the Borrower's name, or in the name of the Bank or otherwise, for the use and benefit of the Bank, (a) to demand, collect, receive payment of, receipt for and give discharges and releases of all claims due or to become due on Assigned Rents; (b) to settle, compromise, compound or adjust any such claims; (c) to commence and prosecute in the name of the Bank or in the name of the Borrower or otherwise any suits, actions or proceedings at law or in equity, in any court of competent jurisdiction, to collect any such sums assigned to the Bank or to enforce

any rights in respect thereof; (d) to sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with any of such claims and also all of the Assigned Equipment, as fully and completely as though the Bank were the absolute owner thereof for all purposes; and (e) generally to deal directly with the Lessee as though the Bank were the Owner of the Assigned Equipment and the Lessor under the Leasing Agreement. For the purpose of realizing its rights therein, the Bank may endorse checks in the name of the Borrower. The powers conferred on the Bank by this Article are solely to protect its own interest and shall not impose any duties upon it to exercise any such powers.

ARTICLE IX
NON-RECOURSE

Notwithstanding any provision of this Loan and Security Agreement and the Note to the contrary, no recourse shall be had against the Borrower for payment of the Note or for enforcement of any covenant, representation or warranty of the Lessee under the Leasing Agreement, it being expressly understood and agreed that except as hereinafter provided in this Article IX all obligations and liabilities of the Borrower under the Note, this Agreement, and all other documents executed pursuant hereto, shall be satisfied solely out of the Leasing Agreement, the Assigned Rents, and the Assigned Equipment; provided, however, that the Bank may look to the general credit of the Borrower for its recovery of, and the Borrower hereby agrees that it will indemnify the Bank against and hold it harmless from, any breach by

the Borrower of any representation, warranty, covenant or undertaking (other than the obligation to pay the ^{Bank}~~Borrower~~ the principal of and interest on the Note) contained in this Agreement, the Leasing Agreement, or in any other document incidental or collateral to either of them.

ARTICLE X
MISCELLANEOUS

Section 10.01. The Borrower waives presentment, demand, protest, notice of default, and all other notices and formalities other than notices specifically required hereunder. The Borrower consents to and waives notice of the granting of indulgences or extensions of time of payment, the taking or releasing of security, the addition or release of persons primarily or secondarily liable on or with respect to liabilities of the Borrower to the Bank, or any right to receive rents or other sums from the Lessee under the Leasing Agreement which is assigned to the Bank, the acceptance of partial payments thereon and/or the settlement, compromising or compounding of any thereof, all in such manner and at such time or times as the Bank may deem advisable. The Bank shall not be required to prosecute collection or other remedies against the Lessee or to enforce or resort to any security, liens, collateral or other remedies appertaining to obligations of the said Lessee, before calling on the Borrower for payment or otherwise, nor shall any act or omission of the Bank in any way impair or affect any of the indebtedness or liabilities of the Borrower to the Bank or rights of the Bank in any security. No delay by the Bank to exercise any right, power or remedy

hereunder or under the Note or any other document or instrument required hereby or incident or collateral hereto, and no indulgence given to the Borrower in case of any default, shall impair any such right, power or remedy or be construed as a waiver of any default by the Borrower or any acquiescence therein or as a violation or waiver of any of the terms or provisions of this Agreement.

Section 10.02. This Agreement and all rights hereunder shall be governed by the law of Massachusetts.

Section 10.03. This Agreement shall bind and inure to the benefit of, and the terms "Borrower" and "Bank" respectively as used in this Agreement shall include, the respective parties and their respective successors and assigns.

Section 10.04. All notices, requests, consents and demands shall be in writing and shall be mailed, postage prepaid, to the parties to this Agreement at the addresses listed below, or to such other addresses as may be furnished in writing to the other parties hereto:

To: American Financial Leasing & Services Co.
14 East Fourth Street
Cincinnati, Ohio 45202

Attention: Mr. R. C. Lintz, Vice President

With copy to: Donald P. Klekamp, Esq.
Keating, Muething & Klekamp
18th Floor, Provident Tower
Cincinnati, Ohio 45202

To: New England Merchants National Bank
31 Milk Street
Boston, Massachusetts 02109

Attention: Mr. Robert P. Coburn

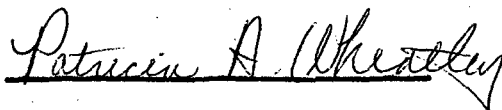
With copy to: Robert B. Fraser, Esq.
Goodwin, Procter & Hoar
28 State Street
Boston, Massachusetts 02109

IN WITNESS WHEREOF, this Agreement has been executed
as a sealed instrument by the duly authorized representatives of the
parties hereto.

WITNESSES:

AMERICAN FINANCIAL LEASING &
SERVICES CO.

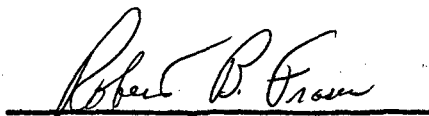
BY: 



NEW ENGLAND MERCHANTS
NATIONAL BANK

BY: 

ASSISTANT LOAN OFFICER



COMMONWEALTH OF MASSACHUSETTS
County of Suffolk, ss:

On this 16th day of February, 1973, before me personally appeared Edward L. Lowe, to me personally known, who being by me duly sworn, says that he is an Assistant Loan Officer of New England Merchants National Bank, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Robert B. Fraser

My commission expires November 26, 1976

STATE OF OHIO
County of Hamilton, ss:

On this 16th day of February, 1973, before me personally appeared R. C. Lintz, to me personally known, who being by me duly sworn, says that he is Vice President of American Financial Leasing & Services Co., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia A. Wheatley

PATRICIA A. WHEATLEY
Notary Public, Hamilton County Ohio
My Commission Expires Aug. 24, 1976

My commission expires _____

PROMISSORY NOTE

\$655,000

_____, 19____

FOR VALUE RECEIVED, AMERICAN FINANCIAL LEASING & SERVICES CO., an Ohio corporation, hereby promises to pay to NEW ENGLAND MERCHANTS NATIONAL BANK, a national banking association, OR ORDER, at said Bank's offices in Boston, Massachusetts, the principal sum of Six Hundred Fifty Five Thousand Dollars (\$655,000), together with interest thereon at a per annum rate of 8-3/4%, payable in 40 equal quarterly installments as follows: \$24,738.33 on April 1, 1973 (provided that there will be a rebate to the undersigned with respect to the unearned interest on this first installment), and the same amount on the first day of each July, October, January and April thereafter until this Note is fully paid (except for the last installment, which shall be in an amount equal to the entire remaining unpaid principal balance plus all accrued but unpaid interest), said quarterly installments of \$24,738.33 to be applied first to the payment of interest and secondly to the reduction of principal. The Borrower hereby further promises to pay interest at a rate of 10% per annum on any overdue installment of interest.

This Note is issued pursuant to, and the holder hereof is entitled to the benefits of, a Loan and Security Agreement dated _____, 19____, between AMERICAN FINANCIAL LEASING & SERVICES CO., as Borrower, and NEW ENGLAND MERCHANTS NATIONAL BANK, as Lender.

EXHIBIT "A"

The Borrower may, on any installment payment date, prepay without penalty or premium the whole or, in multiples of \$25,000, any part of the principal amount of this Note then outstanding, and any such prepayment shall be applied against the remaining unpaid principal balance of this Note due in the inverse order of maturity and shall not relieve AMERICAN FINANCIAL LEASING & SERVICES CO. of its obligation to make the succeeding installment payments required hereunder.

Upon the occurrence of an event of default as defined in said Loan and Security Agreement, all amounts due under this Note shall become immediately due and payable.

No delay or omission on the part of the holder in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion. The undersigned waives presentment, demand, protest and notices of every kind and assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of collateral, and to the addition or release of any other party or person primarily or secondarily liable.

Notwithstanding any of the provisions of this Note, no recourse shall be had against the undersigned for payment of this Note, it being expressly understood and agreed that all obligations and liabilities of the undersigned under this Note shall be satisfied by the holder hereof solely by recourse to the Leasing Agreement, Assigned Rents, and Assigned Equipment as defined in the Loan and Security Agreement.

All rights and obligations hereunder shall be governed by the laws of the Commonwealth of Massachusetts and this Note shall be deemed to be under seal.

AMERICAN FINANCIAL LEASING & SERVICES CO.

BY: _____

R. C. Lintz, Vice President